



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

5636 Southern Boulevard, Virginia Beach, Virginia 23462

(757) 518-2000 Fax (757) 518-2103

www.deq.virginia.gov

L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

Francis L. Daniel
Regional Director

MEMORANDUM

DATE: December 17, 2007

TO: Milt Johnston, Regional Waste Program Manager
Robin Schuhmann, Enforcement Specialist

FROM: Lisa A. Silvia, Waste Inspector Senior II, Tidewater Regional Office ("TRO") *Lisa Silvia*

RE: EPA ID #VAD041447111, IMS Environmental Services, Inc. ("IMS"), Norfolk
Proposed second Notice of Violation support documentation summary

The following information was gathered and considered in development of a proposed second Notice of Violation, to be drafted upon concurrence by management, for the referenced facility:

A) Historical VDEQ correspondence: 1) Notice of Violation ("NOV"), dated February 1, 2007; 2) Memorandum to file, dated January 30, 2007. (Both documents are attached to this memorandum.)

B) 2006 Transporter Annual Report dated February 18, 2007, by IMS; received at VDEQ-TRO on December 13, 2007. According to the report, IMS had two apparent incidences of greater than ten day storage in their on-site transfer facility during calendar year 2006: Manifest #04118, received February 1, 2006, released February 15, 2006, CESQG; and manifest #43841, received August 1, 2006, released August 16, 2006, VAD000016214.

C) The following is excerpted from the January 30, 2007 memorandum: *VDEQ (LA Silvia) completed a RCRA compliance evaluation inspection at LB&B Associates, Incorporated ("LB&B"), 4501 Cedar Lane, Portsmouth, on December 19, 2006.....According to Beth Prevatte of LB&B, IMS removed the waste on November 29, 2006 under the Bill of Lading. A couple of days later, IMS staff contacted Ms. Prevatte by telephone to request LB&B's EPA identification number, as applicable. On December 11, 2006, an IMS representative returned to LB&B with the manifest for LB&B to sign as generator. According to Ms. Prevatte, IMS prepared the manifest without consulting with LB&B or Navy staff...LB&B's copy of the manifest #000172431JJK, prepared by IMS on behalf of LB&B.*

Page 4 of the instructions for completion of the transporter annual report defines "date of receipt of

shipment” as the date the transporter accepted the shipment of hazardous waste from the generator. Manifest #000172431JJK is reported in the annual report as received 12/11/06 and released 12/13/06. This report was prepared and submitted to VDEQ February 18, 2007. The NOV regarding the LB&B issue was dated February 1, 2007. Certified mail receipt indicates the NOV was received by IMS prior to February 5, 2007.

D) The following legal requirements were reviewed:

- 1) 40 CFR 263.12, as adopted by reference at 9 VAC 20-60-263 of the VHWMR, states that a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less is not subject to regulation under parts 270, 264, 265, and 268 of this chapter with respect to the storage of those wastes.
- 2) 9 VAC 20-60-500 of the VHWMR states that a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less is not subject to regulations established for facility management and permitting under these regulations with respect to storage of those wastes.
- 3) 40 CFR 270.1(c)(2), as adopted by reference at 9 VAC 20-60-270 of the VHWMR, states that the following persons are among those who are not required to obtain a RCRA permit: (vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less.
- 4) §10.1 – 1426.A of the Waste Management Act states that no person shall transport, *store, provide treatment for, or dispose of a hazardous waste without a permit from the Director.*

Attachments (2)



Hazardous Waste Survey Sheet

Facility Name	IMS Environmental Services Inc.	EPA ID Number	VAD041447111(5)		
Physical Address	1301 Marsh Street	City	Norfolk	State	VA Zip 23523
Mailing Address	PO Box 1779	City	Norfolk	State	VA Zip 23501
Facility Representative(s)	Contact Information				
		Tel.	(757) 543-5718		
Robert May, Mid-Atlantic Region Manager		Fax.	(757) 543-4561		
		E-mail	rmay@hepaco.com		
DEQ Representative(s)		Date		Type of Inspection	
Lisa A. Silvia, Waste Inspector Senior II, Robin J. Schuhmann, Enforcement Specialist		November 19, 2007		CEI-Transporter	

1 BUSINESS DESCRIPTION

What is the business activity of the firm? (i.e., furniture manufacturing, metal plating, recycling)

Emergency response contract services, remediation services, hazardous, used oil, medical and solid waste transport, and tank cleaning.

SIC Code(s)	(See NAICS)	NAICS Code(s)	562910 – Remediation Services
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Provide a description of processes and/or processes generating wastes. Attach a flow diagram for on-site waste management processes (other than simple satellite/container accumulation, unless relevant).

No routine hazardous waste generation on site. Use aqueous parts washer solution serviced through Safety-Kleen for on-site maintenance-related activities.

Transport of hazardous waste in containers as transporter #1; 10-day transfer facility on site consists of a locked trailer box.

Used oil transporter.

Oil/water (petroleum) separation/processing services (in tanks) on site connected to a CWA-permitted pre-treatment process, including sludge management. Waters are discharged to HRSD. Sludge is analyzed for TCLP prior to disposal to a permitted solid waste management facility, including SPSA, Soilex, or the Middle Peninsula Landfill. Oils which are not processed on site are sent directly to C&M Industries, Norfolk, for recycle.

Hazardous Waste Survey Sheet

2 WASTESTREAM(S)

Give a brief description of the waste stream(s) (by chemical name, if possible) and hazardous waste code(s) generated by the facility.

No routine hazardous waste generation on site.

3 GENERATION RATE(S)

(a) List the (a) nominal amounts of hazardous waste generated in any month and (b) the greatest amounts of all wastes ever accumulated/generated at the site if applicable to generator category determination (i.e., if a CESQG, have they ever exceeded 1000 kg accumulation, or if a SQG have they ever exceeded 1000 kg/mo generation for all waste streams aggregate).

Waste codes	(a) Amount generated in any month	(b) Greatest amounts of ever accumulated
N/A		

4 ACUTE HAZARDOUS WASTE

Yes No NA

(a) Has the facility generated >1 kg/mo of *acute* hazardous waste (P-list)?

☐ ☒ ☐

(b) Has the facility generated >100 kg of *acute* hazardous waste from spill clean-up residue?

☐ ☒ ☐

5 EXCLUSIONS

Yes No NA

(a) Does the facility generate any hazardous waste that is excluded from regulation? (i.e., reclaimed on-site, used as a substitute for a CCP, de-characterized by treatment). If yes, list the waste and the basis for the exclusion.

☒ ☐ ☐

COMMENTS:

Recovered gasoline from gassy waters is sold as fuel. Recovered oil from oily waters/vessel slops is blended and sold as #5 fuel.

6 PRECIOUS METALS RECYCLING

Yes No NA

(a) Does the facility generate any hazardous waste that is reclaimed to recover economically feasible amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these?

☐ ☒ ☐

(b) If yes, list the waste and where it is sent. Verify compliance with Part 266 Subpart F and provide comments:

Hazardous Waste Survey Sheet

7 ACCUMULATION TIME AND QUANTITY

Yes No NA NC

(c) Has the facility accumulated hazardous waste in excess of time and quantity limits established for their generator class? [NOTE: A CESQG may not accumulate more than 1000 kg, a SQG may not accumulate more than 6000 kg or accumulate more than 180 days (or 270 days), and a LQG may not accumulate more than 90 days.]

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(d) Has the facility *episodically* generated hazardous waste in excess of their normal generator category? [Note: Applicable generator category requirements apply to *ALL* wastes during the period of generation and for as long as the waste remains on-site.]

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8 OFF-SITE SHIPMENT

How is the waste presently being handled? Where is it sent? (List all transporters and facilities, or on-site treatment performed.)

Transporters/TSD Fac.	EPA ID Numbers	On-site Treatment
(Based on review of CY2007 manifests)		
<u>Transporters (IMS is primary; others are secondary to TSD):</u>		
Freehold Cartage	NJD054126164	
IMS Environmental Services Inc	VAD041447111	
Parts Cleaning Tech	NCR000138107	
Safety-Kleen (for IMS parts washer)	TXR000050930	
<u>Disposal Facilities (for waste transported by IMS):</u>		
Cycle Chem Inc, Lewisberry, PA	PAD067098822	
Parts Cleaning Technologies PCT, Charlotte, NC	NCR000138107	
Republic Environmental System (PA) Inc., Hatfield, PA	PAD085690582	
Safety-Kleen, Chesapeake, VA (for IMS P/W)	VAD000737346	

9 FACILITY UNIVERSE

Based on the above preliminary information, the facility is considered to have acted as and is being evaluated for this inspection as a:

- ☐ Conditionally exempt small quantity generator (CESQG)
☐ Small quantity generator (SQG)
☐ Large quantity generator (LQG)
☐ Permitted or interim status TSDF
☒ Transporter – **hazardous waste and used oil**
☐ Other: explain

NOTE: If episodic generation has occurred, assign an appropriate generator status for this evaluation and assess compliance during/for the episodic period.

Comments:



Hazardous Waste Survey Sheet

10 VIRGINIA SPECIFIC REQUIREMENTS FOR NOTIFICATION

Yes No NA NC

(a) Is the facility subject to the annual fee as a permitted facility or generator? (9 VAC 20-60-1283)

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(b) For new, episodic or provisional generators, has the facility provided notification to DEQ that it is a generator by submitting documentation to the Regional Office as required under 9 VAC 20-60-315 and 20-60-1283?

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11 GENERAL COMMENTS

Annual inspection for facility designated a significant non-complier on 2/1/07; only transporter checklist completed for this compliance review.

See cover letter for additional details and concerns.

DEPARTMENT OF ENVIRONMENTAL QUALITY

CHECKLIST FOR RCRA INSPECTION OF TRANSPORTERS

FACILITY NAME: IMS Environmental Services Inc.

EPA ID NUMBER: VAD041447111(5)

INSPECTION DATE: November 19, 2007

VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS

VHWMR Section 9 VAC 20-60-

PART/ SECTION	REGULATION	YES	NO	P/V
420.A	Does the company transport hazardous waste which:			
	Originates within the Commonwealth?	X		
420.D.1	Originates within <u>another state</u> or a foreign county? (If yes, for foreign country, complete large quantity generator (LQG) checklist)	X		
	Terminates within the Commonwealth.		X	
	If yes to a, b or c above, complete the remainder of this checklist			
420.D.2	Does the transporter mix hazardous wastes of different shipping descriptions by placing them into a single container or tank? (If yes, complete large quantity generator checklist). (This does not apply to CESQG waste)		X	
420.E 420.F 420.G.	Does the transporter have a currently valid Virginia Hazardous Waste Transporter permit? Permit Number: VAD0414471115 Permit Expiration date: 11/09/2011 (The term of the permit shall be ten years)	X		

PART/ SECTION	REGULATION	YES	NO	P/V
430.A	Does the transporter retain one signed copy of all manifests for at least three years from the date of acceptance?	X		
460 & 40 CFR 262.B.5.	Are all hazardous waste transport vehicles placarded in accordance with the applicable provision of the Regulations Governing the Transportation of Hazardous Materials? Not evaluated, no waste in transit			
480.D	Does the transporter ensure that all labeling and packaging requirements required in Part VI of the VHWMR have been met by the generator before accepting a shipment of hazardous waste? Not evaluated			
470	Is the transporter currently employing a manifest system for all hazardous waste accepted from generators? (Does not apply to wastes received from conditionally exempt small quantity generators and wastes subject to reclamation agreement in accordance with 5.C.)	X		
470	Is the following information included on the transporter's copy of <u>each</u> manifest: See 'Area of Concern' in cover letter to this report regarding manifests.			
	a. The generator's name, address, telephone number and EPA ID number?	X		
	b. Generator's signature and date of release?	X		
	c. A unique manifest number assigned?	X		
	d. Transporter(s) name and EPA ID number?	X		
	e. Printed transporter name, signature, and date of acceptance?	X		
	f. Name, site address, and EPA ID number of the facility designated to receive the waste?	X		
	g. Printed TSD representative's name, signature and date of acceptance? *See cover letter	*		
	h. The U.S. DOT description of each waste to include its proper shipping name, hazard class, and I.D. number (UN/NA) as identified in the Virginia Regulations Governing The Transportation of Hazardous Materials?	X		
	i. Quantities of each waste shipped and the units of weight or volume and the type and number of containers as loaded into or onto the transporter's vehicle?	X		

PART/ SECTION	REGULATION	YES	NO	P/V
470	<p>j. The following certification from the generator:</p> <p>"I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked and labeled, and are in all respects in proper condition for transport by (mode of transportation) according to applicable international and national governmental regulations.</p> <p>If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to a degree I have determined to be economically practicable and that I have selected the practicable method treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford".</p>	X		
480.C	Has the transporter signed and dated each manifest acknowledging acceptance from the generator before transporting the waste?	X		
470	Does the transporter transport hazardous waste from generators of greater than 100 kg but less than 1,000 kg of hazardous waste in a calendar month pursuant to a reclamation agreement? If yes,		X	
	a. Is the following information contained on a log or shipping paper for each shipment:	N/A		
	- the name, address and EPA Identification number of the generator of the waste?			
	- the quantity of waste accepted?			
	- all DOT required shipping information?			
	b. Does the transporter carry this record when transporting the waste to the reclamation facility?	N/A		
	- the date the waste is accepted?			
	c. Does the transporter retain these records for at least three years?	N/A		

PART/ SECTION	REGULATION	YES	NO	P/V
480.H & 480.I	Has the transporter delivered shipments of hazardous waste only to storage, treatment, disposal, or other facilities permitted by the state in which the facility is located or to facilities permitted by the EPA or which qualify for interim status?	X		
490.C	Has the transporter had a hazardous waste spill which involved any of the following:			
	a. A person being killed;		X	
	b. A person receiving injuries requiring hospitalization;		X	
	c. Estimated carrier or other property damage exceeding \$50,000;		X	
	d. Fire, breakage, spillage or suspected radioactive contamination resulting a spill of radioactive material;		X	
	d. A situation which is deemed by the transporter to otherwise cause danger to life?		X	
	If yes to any of the above:			
490.C.1 & 490.C.2	- Did the transporter give notice at the earliest practicable moment to the national response center, U.S. Coast Guard and the Department of Emergency Services? (In case of a spill affecting State waters, notice shall also be given to the DEQ Water Division PREP team.	N/A		
490.C.4	- Was a written report filed with the Department within 15 calendar days of the spill?	N/A		
490.E	Has the transporter had a hazardous waste spill from a fixed facility (e.g. transfer facility) which required notification to the National Response Center? If yes, did the transporter notify the Chief Administrative Officer of the local government of the jurisdiction in which the release occurred?		X	
500	Has the transporter stored hazardous waste in containers or tanks for greater than ten days at the transfer facility?	*		*
279	Does the transporter act as a marketer of used oil burned for energy recovery? (If yes, complete the used oil burned for energy recovery checklist)		X	

Comments: See cover letter to this report regarding details of item labeled "Part/Section 500" above.

**NOTE: A MARK IN THE "P/V" COLUMN INDICATES A POTENTIAL VIOLATION
IF A QUESTION IS NOT APPLICABLE, INDICATE "N/A" ACROSS THE COLUMNS**

February 1, 2007
CERTIFIED MAIL
Return receipt requested

Mr. Robert W. May, PG
Mid-Atlantic Region Manager
IMS Environmental Services, Inc.
PO Box 1779
Norfolk, Virginia 23501-1779

NOTICE OF VIOLATION

RE: EPA ID #VAD041447111
IMS Environmental Services, Inc., Norfolk

Dear Mr. May:

This letter notifies you of information upon which the Department of Environmental Quality ("Department" or "DEQ") may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that IMS Environmental Services, Incorporated ("IMS") may have been in violation of the Waste Management Law and Regulations.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Waste Management Law and Regulations. Pursuant to Va. Code § 10.1-1455 (G), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* The Department requests that you respond **within 10 days of the date of this letter.**

OBSERVATIONS AND LEGAL REQUIREMENTS

The Department granted IMS permission to operate as a hazardous waste transporter in Virginia in accordance with 9 VAC 20-60-450 of the Virginia Hazardous Waste Management Regulations ("VHWMR") under Permit ("Permit") number VAD0414471115. The Permit was issued November 9, 2001, revoked and reissued on August 7, 2002 and again on October 7, 2005. The Permit expires on November 9, 2011. IMS submitted a revised *RCRA Subtitle C Site Identification Form* on May 16, 2005 identifying the facility's regulated waste activities as

hazardous waste transporter and used oil transporter. A review of IMS documents with respect to transporter operations identified the following:

Observations:

1) IMS provided waste transport services for LB&B Associates Incorporated ("LB&B"), Portsmouth, Virginia, for two 55-gallon containers of oil-based and latex-based paints. Two shipping documents were prepared for this waste and reviewed by Department staff. IMS Non-negotiable Truck Loading Ticket and Bill of Lading, #S19626, dated November 29, 2006, identified six (6) containers of liquid mixed with combustible sorbents and two (2) containers of paint. Uniform hazardous waste manifest #000172431JJK, dated and signed by the generator (LB&B) and the transporter 1 (IMS) on December 11, 2006, lists two (2) 55-gallon drums of Waste Paint Related Material, waste codes D001, F003 and F005. Transporter 2, Parts Cleaning Tech, signed and dated manifest #000172431JJK on December 13, 2006 as having received the waste from transporter 1. Initial transport from LB&B to receipt at IMS' Norfolk facility was on November 29, 2006 until transfer to transporter 2 on December 13, 2006, or 14 calendar days.

2) A review of IMS' *Transporter Annual Report*, dated March 30, 2006, for reporting year 2005 (the most recent report submitted), includes the following manifested shipments of hazardous waste that indicate storage for greater than ten days at IMS' facility:

Date of IMS Receipt of Shipment	Generator Identification Number	Secondary Transporter Identification Number	Date IMS Released to Secondary Transporter	Uniform Hazardous Waste Manifest Number	Number of Days Stored Based on Available Data
03/24/2005	VAD988207619	TN0000772186	04/08/2005	5221(sic)	15
03/29/2005	VACESQG	TN0000772186	04/13/2005	5222 (sic)	15
05/07/2005	VAD988193940	TN0000772186	05/18/2005	73211	11
06/01/2005	VAD988193940	TN0000772186	06/15/2005	53333	14
06/01/2005	VAD988193940	TN0000772186	06/15/2005	3337 (sic)	14
06/01/2005	VACESQG	TN0000772186	06/15/2005	5751 (sic)	14

Legal Requirements:

1) 40 CFR 263.12, as adopted by reference at 9 VAC 20-60-263 of the VHWMR, states that a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less is not subject to regulation under parts 270, 264, 265, and 268 of this chapter with respect to the storage of those wastes.

2) 9 VAC 20-60-500 of the VHWMR states that a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less is not subject to

regulations established for facility management and permitting under these regulations with respect to storage of those wastes.

3) 40 CFR 270.1(c)(2), as adopted by reference at 9 VAC 20-60-270 of the VHWMR, states that the following persons are among those who are not required to obtain a RCRA permit: (vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 10 days or less.

4) §10.1 – 1426.A of the Waste Management Act states that no person shall transport, store, provide treatment for, or dispose of a hazardous waste without a permit from the Director.

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Management Act, Waste Management Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Waste Management Act, regulation, order, or permit condition. In addition, Va. Code § 10.1-1455 (G) authorizes the Waste Management Board to issue orders to any person to comply with the Waste Management Act and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, IMS may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Mr. Robert W. May, PG
NOV – IMS Environmental Services, Inc.
February 1, 2007
Page 4 of 4

Please contact Mr. Robin Schuhmann at (757) 518-2134 or rjschuhmann@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,

Milton L. Johnston
Regional Waste Programs Manager

c: Clarence Wilson, Terminal Superintendent, LB&B
Robert M. Schonk, Jr, Director, Sewell's Point Compliance Department, CNRMA
Robin Schuhmann, Enforcement Specialist, DEQ-TRO
Julia King-Collins, DEQ, OWP
File – NHW (IMS)
File – NHW (LB&B)
File – NHW (Craney Island Fuel Depot)
Alison Anderson (electronic database forms only)



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DEPARTMENT OF ENVIRONMENTAL QUALITY

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
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Francis L. Daniel
Regional Director

February 1, 2007

CERTIFIED MAIL

Return receipt requested

Mr. Robert W. May, PG
Mid-Atlantic Region Manager
IMS Environmental Services, Inc.
PO Box 1779
Norfolk, Virginia 23501-1779

*Response due 2/11/07
Robin contacted
meeting 2/21/07*

NOTICE OF VIOLATION

RE: EPA ID #VAD041447111
IMS Environmental Services, Inc., Norfolk

Dear Mr. May:

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4) §10.1 – 1426.A of the Waste Management Act states that no person shall transport, store, provide treatment for, or dispose of a hazardous waste without a permit from the Director.

ENFORCEMENT AUTHORITY

Va. Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Management Act, Waste Management Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Waste Management Act, regulation, order, or permit condition. In addition, Va. Code § 10.1-1455 (G) authorizes the Waste Management Board to issue orders to any person to comply with the Waste Management Act and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Management Act and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1455 (D) and 10.1-1455 (I) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

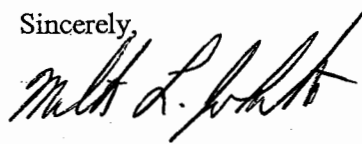
FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, IMS may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. If you complete the Process for Early Dispute Resolution and are not satisfied with the resolution, you may request in writing that DEQ take all necessary steps to issue a case decision where appropriate. For further information on the Process for Early Dispute Resolution, please visit the Department's website under "Laws & Regulations" and "DEQ regulations" at: http://www.deq.virginia.gov/regulations/pdf/Process_for_Early_Dispute_Resolution_8260532.pdf or ask the DEQ contact listed below.

Please contact Mr. Robin Schuhmann at (757) 518-2134 or rjschuhmann@deq.virginia.gov **within 10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,



Milton L. Johnston
Regional Waste Programs Manager

c: Clarence Wilson, Terminal Superintendent, LB&B
Robert M. Schonk, Jr, Director, Sewell's Point Compliance Department, CNRMA
Robin Schuhmann, Enforcement Specialist, DEQ-TRO
Julia King-Collins, DEQ, OWP
File – NHW (IMS)
File – NHW (LB&B)
File – NHW (Craney Island Fuel Depot)
Alison Anderson (electronic database forms only)

Handler's EPA ID Number:		VAD041447111		RCRA Non-Notifier:		NO		If YES , the Handler section must be completed.															
Handler's Name:		IMS Environmental Services, Inc.																					
Physical Address:		1301 Marsh Street			City: Norfolk		State: VA		Zip Code: 23523														
Mailing Address:		PO Box 1779			City: Norfolk		State: VA		Zip Code: 23501-1779														
County or City:		Norfolk City			Contact/Title:		Bryan Genzler, ER Manager																
Universe Change Required:		NO		Indicate the RCRA Generator Universe Status of a RCRA Non-Notifier:																			
Indicate facility's CURRENT Generator Universe:				Transporter				BOYSNC:		NO													
Indicate facility's NEW Generator Universe:																							
Indicate Universe identified on the RCRA Grant Work Plan:				Hazardous Waste Transporter																			
Comment:		VA transporter permit #VAD0414471115																					
Indicate the NEW Transporter Status:				Transporter:		Non-Transporter:		Mode: Air		Rail:		Water:		Highway:									
EVALUATION		Indicate Add,Change, Delete:		Add		Person:		R6LAS		Date:		12/19/06		Day Zero:		12/19/06							
		Region:		TRO		Type:		FCI - FOCUSED COMPLIANCE				FCI:		RTI-REMOTE TRANSPORTER INSPECTION									
Comment:		See also SNY/122 dated 2/1/07																					
Outstanding Violations Covered by the Above Evaluation																							
Agency		Viol. Seq.	Violation Type	Date		Person		Agency		Viol. Seq.	Violation Type	Date		Person		Agency		Viol. Seq.	Violation Type	Date		Person	
S								S								S							
S								S								S							
S								S								S							
S								S								S							
VIOLATIONS																							
Violation		Viol Seq	Link	Violation Type	Region	Person	Date		Regulation Citation			RTC Dates Scheduled Actual		Qual.	Comments								
Add		11	Y	263.A	TRO	R6LAS	12/19/06		40 CFR 263.12			3/2/2007			Greater than 10 days storage in transfer facility								
Add		12	Y	XXS	TRO	R6LAS	12/19/06		9 VAC 20-60-500			3/2/2007			Va permitted transporter >10 days storage in transfer facility								
Add		13	Y	270.A	TRO	R6LAS	12/19/06		40 CFR 270.1(c)(2)(vi)			3/2/2007			No HW Mgmt permit to store; >10 days in transfer facility								
Add		14	Y	FSS	TRO	R6LAS	12/19/06		10.1-1426.A			3/2/2007			Storage without a permit for >10 day transfer facility								
Add			Y																				
Add			Y																				

Violations Continued

[illegible]

ENFORCEMENT ACTIONS

Indicate Add, Change, Delete:

Add

Date **2/1/2007**

Person:	R6LAS
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Type of Action:	120 - Written Informal
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Multi-Media Enforcement Codes:

Penalty Type	Penalty Amount	Comments:
1.		
2.		
3.		
4.		
5.		

Outstanding Violations Covered by the Above Enforcement Action

[illegible]

Violations Continued

[illegible]

ENFORCEMENT ACTIONS

Indicate Add, Change, Delete:

Add

Date	2/1/2007
------	----------

Person:	R6LAS
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Type of Action: 122 - Referral to Enforcement

Multi-Media Enforcement Codes:

Penalty Type	Penalty Amount	Comments:
1.		
2.		
3.		
4.		
5.		

Outstanding Violations Covered by the Above Enforcement Action

[illegible]

MEMORANDUM

DATE: January 30, 2007

TO: Robin Schuhmann, Enforcement Specialist
File - NHW

FROM: Lisa A. Silvia, Waste Inspector Senior II, Tidewater Regional Office

RE: EPA ID #VAD041447111, IMS Environmental Services, Inc. ("IMS"), Norfolk
Proposed Notice of Violation support documentation summary

The following information was gathered and considered in development of a proposed Notice of Violation, draft date of January 30, 2007, for the referenced facility:

A) Historical IMS/VDEQ correspondence: 1a) March 27, 2006, Warning Letter from Lisa Silvia, VDEQ, to Larry Halda, IMS; 1b) April 17, 2006, response to Warning Letter from Robert May, IMS, to Lisa Silvia, VDEQ; 2a) June 20, 2006, Alleged Storage Greater Than 10 Days, from Julia King-Collins, VDEQ, to Larry Halda, IMS; and 2b) July 7, 2006, response from Robert May, IMS to Julia King-Collins, VDEQ (copies attached here).

B) Patrick Brown, IMS, contacted VDEQ (LA Silvia) by telephone on December 11, 2006, at 1343 hours, to inquire as to an EPA identification number for LB&B, 4501 Cedar Lane, Portsmouth.

C) VDEQ (LA Silvia) completed a RCRA compliance evaluation inspection at LB&B Associates, Incorporated ("LB&B"), 4501 Cedar Lane, Portsmouth, on December 19, 2006. LB&B, a contractor, operates the US Navy's Craney Island Fuel Depot facility. During the inspection, LB&B provided to VDEQ the following documents and information:

- 1) Fax cover sheet dated November 15, 2006, from LB&B to IMS listing wastes to be picked up, including "2 drum old paint (several cans of paint, both oil based and latex)";
- 2) IMS Truck Loading Ticket and Bill of Lading, #S19626, dated November 29, 2006. Ticket includes six (6) containers of liquid mixed with combustible sorbents and two (2) containers of paint. Handwritten note on ticket states "28 1 gallon pint cans in 1 - 55 gallon drum. Left customer with 9 empties. 13 1-gallon paint can in 2 drums total 41

- paint cans. No liquid form available. For customer to sign. Was not aware of paint.”
- 3) Uniform hazardous waste manifest #000172431JJK dated and signed by the generator (LB&B) and the transporter 1 (IMS) on December 11, 2006. Manifest lists waste as two (2) 55-gallon drums of Waste Paint Related Material, waste codes D001, F003 and F005.
 - 4) According to Beth Prevatte of LB&B, IMS removed the waste on November 29, 2006 under the Bill of Lading. A couple of days later, IMS staff contacted Ms. Prevatte by telephone to request LB&B's EPA identification number, as applicable. On December 11, 2006, an IMS representative returned to LB&B with the manifest for LB&B to sign as generator. According to Ms. Prevatte, IMS prepared the manifest without consulting with LB&B or Navy staff. The waste shipment did not include a land disposal restriction notification (“land ban”).

D) LB&B's copy of the manifest #000172431JJK, prepared by IMS on behalf of LB&B, had several apparent errors: 1) no EPA identification number in block 1, 2) no page numbers in block 2, 3) an invalid EPA identification number for transporter 2 in block 7, 4) an incorrect spelling of the name of the designated facility in block 8, 5) the EPA identification number for the designated facility in block 8 is missing two digits, thus is invalid, and 6) the LB&B copy is marked as the “designated facility to generator” copy instead of the “generator's initial copy” copy. You are also directed to item I) of the “Additional Notes and Areas of Concern” portion of the March 27, 2006 Warning Letter attached to this memorandum for historical comparison.

E) According to Bryan Genzler, IMS, during a meeting on December 20, 2006 with VDEQ staff, the treatment, storage and disposal (“TSD”) facility's representative, Jason Ridenour, Parts Cleaning Incorporated (“PCI”), contacted IMS on December 15, 2006 by telephone requesting a waste profile and land ban document for the manifested waste. As per a telephone conversation by VDEQ (LA Silvia) with Jason Ridenour, PCI, on January 8, 2007, the waste had not yet been accepted into the facility but was held in PCI's transfer location pending receipt of the waste profile. (It is noted that the US Navy, Craney Island, took ownership of the waste and prepared a revised manifest (#000172436JJK), and provided land ban and waste profile information to the transporters and TSD facility on or about January 22, 2007.)

F) During the meeting of December 20, 2006, as well in an electronic mail of January 19, 2007, VDEQ requested that IMS provide a timeline of events between the waste being picked up on November 29, 2006 and transfer to transporter 2 on December 13, 2006. Bryan Genzler, IMS, provided the following response excerpted from an email received on January 29, 2007:

I interviewed both Patrick Brown and Joe Downing today about this incident.

Two drums containing 41 paint cans were collected from Craney Island on 11-29-07 (sic) and brought to IMS Norfolk for storage. The drums were manifested on an IMS bill of lading along with 6 drums of oily absorbent material. Upon arrival to the IMS shop, new shipping paperwork was generated for the drums and the paint cans (separate forms). This was done because the IMS truck ticket is utilized as a method for internal billing between the Plant and Operations for waste brought into the plant. Since Mr. Downing was aware that the paint cans were not a waste stream that IMS disposed through our plant he knew that the paint needed to be on a separate ticket. He chose to list the paint on a bulk liquids ticket because he believed the cans were full of liquid latex paint. The drums of absorbents were off loaded to the appropriate area. The drums of paint were off loaded outside of the haz-waste locker which was locked.

On December 11, 2006 Patrick Brown surveyed the Haz-waste storage locker to prepare for a monthly pick-up from Parts Cleaning Technology. This pickup was scheduled on 12-13-06. In addition, Patrick walked the entire IMS property looking for any other non-haz that were not part of our current waste stream. Patrick discovered two drums full of paint cans from LB&B. This is when Patrick called VDEQ. One drum was located where Mr. Downing left it outside the haz-waste locker and the other was adjacent to drums of contaminated soil. Patrick logged these drums into the haz-waste log on 12-11-06 and sent Mr. Downing to Craney Island with a haz-waste manifest for LB&B to sign as generator of the paint waste. Neither of the two gentlemen attempted to verify if the drums were full of latex or flammable paint. Or what percentage of each?

Since this incident we have asked our consulting group to manage the haz-waste pickups because they maintain a more routine schedule and Mr. Macnab has had previous experience as a field chemist.

G) You are directed to the issue of concern cited in the June 20, 2006 letter from VDEQ attached to this memorandum for apparent repeat noncompliance.

H) VDEQ granted IMS permission to operate as a hazardous waste transporter in Virginia in accordance with 9 VAC 20-60-450 of the VHWMR under permit number VAD0414471115. The transporter's permit was issued November 9, 2001, revoked and reissued on August 7, 2002 and again on October 7, 2005. The permit is set to expire on November 9, 2011. IMS does not maintain a hazardous waste management facility permit for treatment, storage or disposal at the Marsh Street location.

I) IMS is being designated as a significant non-complier facility for operating without a permit, as per 40 CFR 270.1(c)(2)(vi) and in accordance with Attachment B to the 1996 EPA Civil Enforcement Response Policy.

Attachments (4)